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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,320	07/18/2003	Katsuei Ichikawa	16869N-085600US	3277

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EXAMINER

TRAN, NHAN T

ART UNIT	PAPER NUMBER
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2622

MAIL DATE	DELIVERY MODE
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09/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/623,320		ICHIKAWA ET AL.	
	Examiner		Art Unit	
	Nhan T. Tran		2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,13 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 2, 13 and 14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Objections

2. Claims 1 & 2 are objected to because of the following informalities:

Each of claims 1 & 2 recites a plurality of words "<new line>" which should be removed from the claims.

Furthermore, claim 1 recites "transmits data through the communication interface" in line 3 of claim 1 which should be corrected to read as -- transmits data through the communication interfaces --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1 & 13 are rejected under 35 U.S.C. 102(a) as being anticipated by Meese (WO 02/098074).

Regarding claim 1, Meese discloses a transmitting device (device 1 shown in Fig. 4) which is provided with a plurality of communication interfaces (12, 13) connectable to a plurality of respective communication lines (four communication routes in which two communication routes are respectively connected to each of the interfaces 12 and 13 of the transmitting device to four ports 22, 23, 62 and 63) and transmits data through the communication interface[s] (see abstract; page 1, lines 1-23 and page 11, line 6 – page 13, line 10), wherein, if a communication line connected to the transmitting device is disconnected (i.e., the line connected to port 22 in Fig. 4 is disconnected as failure to transmit the data) while data is being transmitted to a destination (destination 2 or 6 in Fig. 4), an other communication line (i.e., the line connected to port 23) that is connected to the transmitting device is selected to reestablish communication with the destination, the other communication line being selected from among a plurality of alternate communication lines (four alternate lines shown in Fig. 4) connected to the transmitting device based on a plurality of criteria comprising reliability of the line connection (reliability of each line is determined based on probability of a number of successes and failures of the line connection), condition of communication line (i.e., the line that successfully works); an appropriate communication line (i.e., the line connected to port 23) is selected based on predetermined criteria for communication line connection; wherein a communication interface corresponding to the selected communication line is driven to establish connection with the communication line; and

wherein the data is transmitted over the selected communication line (see Fig. 4; page 1, lines 1-23; page 6, line 15 – page 7, line 7 and page 11, line 6 – page 13, line 10).

Regarding claim 13, this method claim is also met by the analysis of the apparatus claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meese (WO 02/098074) in view of Fischer (US 4,941,089).

Regarding claim 2, Meese discloses all limitations of claim 3 as analyzed in claim 1. Although Meese discloses memory 18 for storing a record of the number of successes and failures for each of alternative routes, Meese is silent as to a data storing means for storing data to be transmitted, and said data generated and stored in said data storing means while the communication line is disconnected is transmitted together with data to be transmitted.

However, Fischer teaches a transmitting device for a network computer system that buffers data packet to be transmitted in a buffer RAM (208 in Fig. 8), and the

transmitting device also detects and re-transmits missing or lost data packet to a receiving device along with the packet to be transmitted during a transmitting transaction so as to ensure a complete data packet has been successfully received (see Fischer; Figs. 2-8; col. 13, lines 26-40 and col. 29, lines 28-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus in Meese to include a data storing means for storing data to be transmitted and the data generated and stored in the data storing means while the communication line disconnected is transmitted together with data to be transmitted so as to ensure that the data is always received at the destination in view of the teaching of Fischer.

Regarding claim 14, this method claim is also met by the analysis of claim 2.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhan T. Tran whose telephone number is (571) 272-7371. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


NHAN T. TRAN
Patent Examiner